



The City of West University Place

A Neighborhood City

ZONING BOARD OF ADJUSTMENT
MUNICIPAL BUILDING
3800 UNIVERSITY BOULEVARD
REGULAR MEETING MINUTES
September 22, 2016
6:30 pm

I.	MEMBERS PRESENT:	Ed Sobash (voting), Edward Nikonowicz (voting), Donald Yurewicz (voting) and Chris Heard (voting), Neil Martin (voting)
II.	MEMBERS ABSENT:	Sandy Hellums-Gomez, Janet Parisi and Dave Miller
III.	STAFF PRESENT:	Martye Kendrick, Legal Counsel; Debbie Scarcella, City Planner and Josie M. Hayes, Administrative Coordinator
IV.	CALL TO ORDER:	6:42 pm.

Agenda Item

Discussion

Action

1	Call the meeting to order. Notices, Rules, Etc.	Ed Sobash called the meeting to order at 6:35 p.m. Ed Sobash asked each member to briefly introduce themselves and state if they are voting or nonvoting. Debbie Scarcella, City Planner, stated that all notices were posted in accordance with state and local requirements. Ed Sobash then described the hearing procedures. Swearing in of witnesses.	Chris Heard moved to accept that all notices were properly posted and distributed for this meeting. Second by Neil Martin. Ayes: Ed Sobash, Edward Nikonowicz, Donald Yurewicz, Chris Heard and Neil Martin. Motion Carried. Ed Sobash administered the oath to all witnesses.
2	Docket No. 2016-14, regarding property at 6707 Academy; "0" Ruskin Street, West University Place, Texas 77005 (Special Exception) a. Public hearing regarding a request for a special exception. b. Deliberation,	Before the hearing began, Ed Sobash stated that there were two requests to be designated as a party to the application. Mr. Robert Grossman requested that he be designated as a party due to the proximity of the site to his residence. Mr. Amar Patel also requested to be designated as a party to the application due to the proximity of his residence to the building site. The applicant, AT&T, represented by Reid	Motion to designate Robert Grossman as a party to the application due to the proximity of his residence to the property involved in the matter by Neil Martin. Second by Chris Heard. Ayes: Ed Sobash, Edward Nikonowicz, Donald Yurewicz, Chris Heard and Neil Martin. Motion Carried. Motion to designate Mr. Patel as a party to the application due to the proximity of





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decisions, other action, etc. regarding the preceding matters.

Wilson, requested a special exception as authorized by Section 12-06 of the zoning regulations, which grants Prior Nonconforming status for items that were shown in plans, approved, permitted and constructed in accordance with the approved plans, but end up being nonconforming to the regulations. The AT&T site is an L-shaped property located at the corner of Bellaire Boulevard and Academy Street and extending to the corner of Academy and Ruskin Streets. A portion of the site is zoned Light Commercial (C), another portion Single Family (Detached) Third District (SF-3), and the remainder Planned Development District Single Family Second (PDD SF-2). The property was developed initially on the south portion in 1940 with subsequent additions, including a major one in 1956 that extended the building almost the entire length of the lot fronting on Bellaire Blvd. In 1970 and 1975, the City Council enacted rezoning ordinances for six adjacent rear lots along Ruskin for parking of company owned and employee owned vehicles. The use of the structures on the site have basically remained as a switching station for telephone service, but has also housed multiple company related activities throughout the years. At times there have been a large number of occupants and at other times a small number of occupants. Recently the activity levels increased and concerns were expressed that the business activities occurring on site did not comply with the ordinance restrictions on the use of the rear lots for parking. Staff researched and wrote a decision on November 9, 2015 regarding the activities taking place on the site. The decision stated that the activity related to the dumpster/recycle storage bins and the access for delivery vehicles were not allowed on those lots zoned for parking and located within the SF-3 and PDD SF-2 districts. The applicant filed an application appealing this decision, asking for a special exception under a different zoning regulation and asking for a variance. The initial hearing was held in January 2016, with a request for a new hearing/reconsideration in May 2016. The ZBA affirmed the decision and did not grant the special exception or variance. The applicant

his residence to the property involved in the matter by Chris Heard. Second by Edward Nikonowicz. Ayes: Ed Sobash, Edward Nikonowicz, Donald Yurewicz, Chris Heard and Neil Martin. **Motion carried.**

Motion to close the evidentiary portion of the hearing was made by Edward Nikonowicz. Second by Donald Yurewicz. Ayes: Ed Sobash, Edward Nikonowicz, Donald Yurewicz, Chris Heard and Neil Martin. **Motion carried.**

After deliberation, Chris Heard made a motion to approve the special exception to acquire Prior Non-Conforming status allowing the continuation of the use of the parking area to house a waste storage area and as access to a dock area at the rear of the building with the following conditions: (a) An 8' brick or masonry wall with opaque gates must be constructed around the site (b) The loading dock/platform may not be increased in size (c) Tree screening with irrigation must be installed along Ruskin and Academy (d) No eighteen-wheelers or tractor trailers may use the parking area and (e) Owner is to take reasonable steps to reduce the noise emanating from the site. Seconded by Donald Yurewicz. Ayes: Ed Sobash, Edward Nikonowicz, Donald Yurewicz Chris Heard and Neil Martin. **Motion Carried.**





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is now asking for a special exception under a different section of the zoning regulations.

Mr. Wilson presented several permits from the past that the applicant believes shows the waste storage area and permitting for the screening as well as plans that clearly show a pathway from the two southern-most driveways to the loading platform/dock area at the rear of the main structure. The applicant also presented plans showing permitting for the loading platform/dock area.

Staff received one letter against the application and two letters in favor of the application. They were provided in the meeting packets.

Citizens speaking in favor of the application were:

Jennifer Black	4040 Ruskin
John Tsertos	4103 Riley
Jeff Relf	4039 Riley
John Neighbors	4718 Hallmark
Alida Drewes	6112 Fordham

Citizens speaking against the application were:

Brennan Reilly	
John Tainer	4107 Ruskin
Boris Markhasin	4024 Ruskin

Mr. Robert Grossman spoke as a party against the application. Mr. Grossman believes that the intensity of the business activities onsite have created a warehouse/distribution center/truck depot against the zoning regulations. He also does not agree with the interpretation that Academy is a residential street. He would prefer that any entry and exit to the site be off of Bellaire Street, which would then not affect any of the residential properties on Academy.

Mr. Amar Patel spoke as a party against the application. Mr. Patel first read a letter from David Cole, who resides on Cason Street. This letter had been provided to the board members via the meeting packets. Mr. Patel then spoke regarding the additional traffic, pedestrian safety, and property value decreases.





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Section 12-106 was enacted in 2008 to allow for alternative relief to a variance when there was a clear indication that approved plans showed nonconformity with the zoning regulations and the nonconformity was built according to plan. The applicant believes that both the waste storage area and the dock area were approved, permitted and constructed with no knowledge of nonconformance at the time of construction. The applicant has provided several different permits and plans of the areas in question.

The ZBA has the authority per Section 11-102 of the zoning regulations to authorize a special exception where it is expressly indicated in the regulations. To issue a special exception to section 12-106, the ZBA must find that a structural item did not conform to the ordinance when it was constructed or established by affirming that:

- 1) The nonconformance was clearly shown in plans and specifications;
- 2) Before the work was done, neither the owner, contractor nor any other person assisting with the work knew about the noncompliance;
- 3) The nonconformance was covered by the permit and the permit was regularly issued;
- 4) After learning of the nonconformance, the owner promptly conferred with the administrative official;
- 5) The item will neither constitute a health or safety hazard nor cause a significant impact upon another person or property; and,
- 6) The item can be brought into compliance within the time period specified at a modest or reasonable cost, unless the ZBA finds that the impact of the item on other persons or properties is either nil or extremely small.

The special exception must specify a time period to be brought into compliance (if required). Additionally, any special exception may contain conditions designed to:

- 1) Reduce nonconformance;
- 2) Mitigate the effects of nonconformance;
- 3) Achieve conformance sooner than the specified time period; and,
- 4) Any combination of the foregoing.



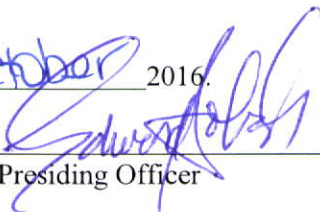


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		Additionally, the ZBA must determine that the special exception will not cause: (i) any increase in on-street parking, (ii) any substantial traffic congestion or (iii) any substantial increase in traffic or an unreasonable burden on utility systems or any other public facility or public service. The ZBA must also determine that the special exception will be in harmony with the general purpose and intent of the Zoning Ordinance.	
3	Meeting Minutes.	Approval of meeting minutes of May 26, 2016 and July 28, 2016.	Donald Yurewicz made a motion to defer the minutes of May 26, 2016 and July 28, 2016 until the next meeting. Second by Edward Nikonowicz. Ayes: Ed Sobash, Edward Nikonowicz, Donald Yurewicz, Chris Heard and Neil Martin. Motion Carried.
	Adjournment.	The meeting was adjourned at 11:18 pm.	Ed Nikonowicz moved to adjourn the meeting. Second by Ed Sobash. Ayes: Ed Sobash, Edward Nikonowicz, Donald Yurewicz, Chris Heard and Neil Martin. Motion Carried.

APPROVED THIS 27th DAY OF October 2016.


Presiding Officer

ATTEST: Josie M. Hayes
Josie M. Hayes, Public Works Administrator Coordinator

